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April 10, 2008

Adam Laputz
Central Valley Regional Water Quality Control Board
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Regarding: Long-Term Irrigated Lands Regulatory Program

Dear Mr. Laputz:

Western United Dairymen provides the following comments regarding scoping for the long-term irrigated lands regulatory program. As you are aware, the dairies of region 5 are now operating under Order No. R5-2007-0035, General Waste Discharge Requirements (WDRs) for Existing Milk Cow Dairies (Order). Some dairies that have recently expanded and proposed new dairies will be operating under individual WDRs that will be similar to the Order. The Order is costly, both in time and financial resources. Cost estimates provided by regional board staff are \$41,700 for upfront costs and \$33,300 for annual compliance costs. As the irrigated program progresses, we most strongly urge the regional board to avoid establishing requirements that would increase the burden already carried by the dairy farms of the region. We particularly insist that our dairy families not be placed into a situation requiring them to participate in two regulatory programs, unless they voluntarily choose to do so.

Several key points are worth noting:

- 1) In order to comply with the dairy WDR many dairy farms are installing tailwater return systems and will not be discharging tailwater or contaminated stormwater.
- 2) At the meeting we attended on April 1, 2008, one coalition indicated that they were concerned about the loss of dairy lands jeopardizing their coalition's financial security. Several factors should be reviewed with relation to this concern.
 - a) It is expected that several dairies will shut down as they find they are unable to comply with the requirements of the dairy WDR. The dairies in the coalition area that expressed concern are especially vulnerable. We expect that as these facilities close they will transfer to the irrigated program. This potential change should be thoroughly researched in the scoping process.
 - b) In addition, the loss of dairies will have an impact on the entire valley economy; this too should be part of the scoping.
 - c) Most importantly, provision is made in the dairy Order on page 6 of the Monitoring and Reporting program for alternative monitoring proposals. The language from the Order follows:

"5. Parties interested in coordinating or combining surface water monitoring conducted by an individual dairy or group of dairies with monitoring conducted pursuant to the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R5-2006-0053

for Coalition Group or Order No. R5-2006-0054 for Individual Discharger, or updates thereto) may propose an alternative monitoring program for the Executive Officer's consideration. The alternative program shall not begin until the Discharger receives written approval from the Executive Officer."

If an irrigated lands coalition should so desire, an alternative monitoring program to fulfill the requirements of the dairy Order may be proposed and reasonable fees for such a service to dairies could be established. It is not necessary for a dairy to be a member of a coalition to take advantage of such a service should it be offered. This paragraph was specifically included in the dairy Order at the request of the dairy representatives to address the loss of dairy acres to the coalition funding base.

- 3) Dairies under the General Order had to meet certain criteria to qualify for the existing facilities exemption from CEQA review. Part of complying with the criteria for the exemption was to identify the current lands under the control of the dairy and to include those lands in the dairy WDR as part of an existing facility. To fail to include those lands in the dairy WDR, and to subsequently use them for manure or wastewater application may require the producer to obtain CEQA review before such use is allowed.
- 4) The materials presented at the April 1, 2008, meeting mention the prevention of groundwater degradation. Groundwater is already degraded in some areas of region 5. We suggest the wording in the scoping documents reflect "further" degradation.
- 5) We earlier mentioned the cost of the dairy WDR. Additionally, the cost-effectiveness of the irrigated program/dairy program inter-relationship relative to regional board staff efficiency should be considered.
- 6) The influence of urban, suburban, and rural residential sources will be a continuing dilemma. The inability to adequately fund the monitoring necessary to address these sources is a vexing issue, and must be confronted. It is patently unfair to expect agriculture to pay the entire freight for the rest of the contributors in the watershed. Providing public funds to the coalitions is the most effective way to get everyone to pay their fair share. How to provide such a funding source should be part of the scoping.

Groundwater:

Concern regarding groundwater was a major part of the staff presentation at the April 1 meeting. The coordination of a regional groundwater monitoring program should be a major focus of the scoping process. If a regional program were to be developed, the existing monitoring done by dairies, researchers, the Department of Pesticides, POTWs, the regional board, the GAMA program, the USGS, and others could be mapped and overlaid on the various watersheds. Doing so would allow the regional board to see where coverage is adequate and where more may be needed.

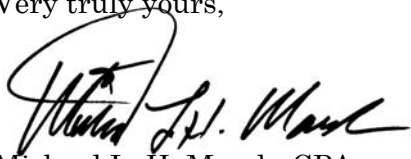
The scoping should also evaluate whether groundwater monitoring should be a separate program, conducted outside the irrigated lands program and outside the dairy WDR. It seems highly likely that combining existing programs for groundwater will be more efficient and cost-effective, as well as far more comprehensive, than the current fragmented system. It is well known by university researchers that individual facility groundwater monitoring is not very effective in an agricultural situation. Additionally, as we expressed above, establishing a separate program utilizing public funding will eliminate the unfairness of requiring agriculture to shoulder the entire funding burden.

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A separate groundwater program could research and develop "Best (or Conservation) Management Practices—BMPs or CMPs—for both agricultural endeavors and homeowners. With adequate funding support, an aggressive and collaborative educational and outreach program could be developed on a watershed-by-watershed basis. It should be noted, however, that it is likely that the regional board would have to define and adopt the BMPs/CMPs as BPCT in order to meet legal requirements.

In closing, we suggest that the dairy industry be invited to participate in further small group discussions regarding the issue of dairy lands participating in the dairy WDR or the irrigated waiver. Western United Dairymen is willing to participate, but we must insist that no additional burdens be placed on our members by the irrigated lands regulatory program.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael L. H. Marsh". The signature is fluid and cursive, with a large initial "M" and "L".

Michael L. H. Marsh, CPA
Chief Executive Officer

MM/kmr

cc: jkarkoski@waterboards.ca.gov
Paul Martin